

of such merger, consolidation, purchase of assets, or acquisition is necessary to prevent the probable failure of one of the institutions involved.

(b)(1) A merger, consolidation, purchase of assets, or acquisition which requires agency approval under 12 U.S.C. 1817(j) or 12 U.S.C. 1730(q) shall be exempt from the requirements of the act if copies of all information and documentary materials filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to consummation of the proposed acquisition.

(2) A transaction described in paragraph (b)(1) of this section shall be exempt from the requirements of the act, including specifically the filing requirement, if the agency whose approval is required finds that approval of such transaction is necessary to prevent the probable failure of one of the institutions involved.

[43 FR 33544, July 31, 1978, as amended at 48 FR 34436, July 29, 1983]

§ 802.9 Acquisition solely for the purpose of investment.

An acquisition of voting securities shall be exempt from the requirements of the act pursuant to section 7A(c)(9) if made solely for the purpose of investment and if, as a result of the acquisition, the acquiring person would hold ten percent or less of the outstanding voting securities of the issuer, regardless of the dollar value of voting securities so acquired or held.

Examples: 1. Suppose that acquiring person “A” acquires 6 percent of the voting securities of issuer X, valued at \$30 million. If the acquisition is solely for the purpose of investment, it is exempt under section 7A(c)(9).

2. After the acquisition in example 1, “A” decides to acquire an additional 7 percent of the voting securities of X. Regardless of “A”’s intentions, the acquisition is not exempt under section 7A(c)(9).

3. After the acquisition in example 1, acquiring person “A” decides to participate in the management of issuer X. Any subsequent acquisitions of X stock by “A” would not be exempt under section 7A(c)(9).

§ 802.10 Stock dividends and splits.

The acquisition of voting securities, pursuant to a stock split or pro rata stock dividend, shall be exempt from

the requirements of the act under section 7A(c)(10).

§ 802.20 Minimum dollar value.

An acquisition which would be subject to the requirements of the act and which satisfies section 7A(a)(3)(A), but which does not satisfy section 7A(a)(3)(B), shall be exempt from the requirements of the act if as a result of the acquisition the acquiring person would not hold:

(a) Assets of the acquired person valued at more than \$15 million; or

(b) Voting securities which confer control of an issuer which, together with all entities which it controls, has annual net sales or total assets of \$25 million or more.

Examples: 1. Acquiring person “A” intends to acquire 66 percent of the voting securities of corporation X from X’s ultimate parent entity, W, and “A” holds no other assets or voting securities of acquired persons “W”. X has no subsidiaries and does not have annual net sales or total assets of \$10 million. If the postacquisition value of “A”’s holdings of voting securities of X would be \$15 million or less, the acquisition would be exempt under this section.

2. Assume that acquiring person “B” holds voting securities of corporation Q valued at \$9 million. “B” now intends to acquire assets of Q valued at \$7 million. Since the aggregate total amount of voting securities and assets of “Q” to be held by “B” would exceed \$15 million, section 7A(a)(3)(B) would be satisfied, and the acquisition would not be exempt under this section.

3. Assume that acquiring person “C” holds \$5 million of the voting securities of corporation R, an entity included within person “T.” “C” now proposes to acquire \$8 million of the assets of corporation S, also an entity included within person “T,” representing 20 percent of “T”’s total assets. Section 7A(a)(3)(B) is not satisfied because the aggregate total amount of “C”’s holdings in acquired person “T” will be less than \$15 million. Although section 7A(a)(3)(A) would be satisfied by the asset acquisition, it will nevertheless be exempt under paragraph (a) of this section.

[43 FR 33544, July 31, 1978, as amended at 44 FR 66782, Nov. 21, 1979]

§ 802.21 Acquisitions of voting securities not meeting or exceeding greater notification threshold.

An acquisition of voting securities shall be exempt from the requirements of the act if: